Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Working Time Regulations (Northern Ireland) 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY RULES OF NORTHERN IRELAND

2016 No. 49

EMPLOYMENT

The Working Time Regulations (Northern Ireland) 2016

Made - - - -	*18th February 2016*
Coming into operation	*28th February 2016*

The Department for Employment and Learning, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 [F1] (being a Department designated for the purposes of that section in relation to measures relating to the organisation of working time [F2], measures relating to the employment of children and young persons [F3] and measures relating to mediation [F4]) and Article 15 of the Work and Families (Northern Ireland) Order 2006 [F5], makes the following Regulations:

F1 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7)
F2 S.I. 1997/1174
F3 S.I. 1996/266
F4 S.I. 2010/2690
F5 S.I. 2006/1947 (N.I. 16); Article 15 was amended by section 20 of the Work and Families Act (Northern Ireland) 2015 (2015 c.1 (N.I.))

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Working Time Regulations (Northern Ireland) 2016 and shall come into operation on 28th February 2016.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 [F6], except section 39(2), shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(2) In these Regulations—

"the 1996 Order" means the Employment Rights (Northern Ireland) Order 1996 [F7];

"adult worker" means a worker who has attained the age of 18;

"the armed forces" means any of the naval, military and air forces of the Crown;

"calendar year" means the period of twelve months beginning with 1st January in any year;

"the civil protection services" includes the police, fire services and ambulance services, the security and intelligence services, customs and immigration officers, the prison service, the coastguard, and lifeboat crew and other voluntary rescue services;

"collective agreement" means a collective agreement within the meaning of Article 2 of the Industrial Relations (Northern Ireland) Order 1992 [F8], the trade union parties to which are independent trade unions within the meaning of that Article;

"day" means a period of 24 hours beginning at midnight;

"employer", in relation to a worker, means the person by whom the worker is (or, where the employment has ceased, was) employed;

"employment", in relation to a worker, means employment under the worker's contract;

"the Executive" means the Health and Safety Executive for Northern Ireland;

"mobile worker" means any worker employed as a member of travelling or flying personnel by an undertaking which operates transport services for passengers or goods by road or air;

"night time", in relation to a worker, means a period—

(a) the duration of which is not less than seven hours, and

(b) which includes the period between midnight and 5 a.m.,

which is determined for the purposes of these Regulations by a relevant agreement, or, in default of such a determination, the period between 11 p.m. and 6 a.m.;

"night work" means work during night time;

"night worker" means a worker—

(a) who, as a normal course, works at least three hours of the worker's daily working time during night time, or

(b) who is likely, during night time, to work at least such proportion of the worker's annual working time as may be specified for the purposes of these Regulations in a collective agreement or a workforce agreement;

and, for the purpose of paragraph (a) of this definition, a person works hours as a normal course (without prejudice to the generality of that expression) if that person works such hours on the majority of days on which the person works;

"offshore work" means work performed mainly on or from offshore installations (including drilling rigs), directly or indirectly in connection with the exploration, extraction or exploitation of mineral resources, including hydrocarbons, and diving in connection with such activities, whether performed from an offshore installation or a vessel, including any such work performed in the territorial waters of the United Kingdom adjacent to Northern Ireland or in an area or part of an area designated under section 1(7) of the Continental Shelf Act 1964 [F9] in which the law of Northern Ireland applies [F10];

"registered medical practitioner" means a fully registered person within the meaning of the Medical Act 1983 [F11];

"relevant agreement", in relation to a worker, means a workforce agreement which applies to the worker, any provision of a collective agreement which forms part of a contract between the worker and the worker's employer, or any other agreement in writing which is legally enforceable as between the worker and the employer;

"relevant training" means work experience provided pursuant to a training course or programme, training for employment, or both, other than work experience or training—

(a) the immediate provider of which is an educational institution or a person whose main business is the provision of training, and

(b) which is provided on a course run by that institution or person;

"rest period", in relation to a worker, means a period which is not working time, other than a rest break or leave to which the worker is entitled under these Regulations;

"the restricted period", in relation to a worker, means the period between 10 p.m. and 6 a.m. or, where the worker's contract provides for the worker to work after 10 p.m., the period between 11 p.m. and 7 a.m.;

"statutory provision" has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

"worker" means an individual who has entered into or works under (or, where the employment has ceased, worked under)—

(a) a contract of employment; or

(b) any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual;

and any reference to a worker's contract shall be construed accordingly;

"worker employed in agriculture" has the same meaning as in the Agricultural Wages (Regulation) (Northern Ireland) Order 1977 [F12] and a reference to a worker partly employed in agriculture is to a worker employed in agriculture whose employer also employs that worker for non-agricultural purposes;

"workforce agreement" means an agreement between an employer and workers employed by that employer or their representatives in respect of which the conditions set out in Schedule 1 are satisfied;

"working time", in relation to a worker, means—

(a) any period during which the worker is working, at the employer's disposal and carrying out the worker's activities or duties,

(b) any period during which the worker is receiving relevant training, and

(c) any additional period which is to be treated as working time for the purpose of these Regulations under a relevant agreement;

and "work" shall be construed accordingly; and

"young worker" means a worker who has not attained the age of 18 and who is over compulsory school age within the meaning of Article 46 of the Education and Libraries (Northern Ireland) Order 1986 [F13].

(3) In the absence of a definition in these Regulations, words and expressions used in particular provisions which are also used in corresponding provisions of the Directive 2003/88/EC of the European Parliament and of the Council of 4th November 2003 concerning certain aspects of the organisation of working time [F14] or the Directive 94/33/EC of the European Parliament and of the Council of 22nd June 1994 on the protection of young people at work [F15] have the same meaning as they have in those corresponding provisions.

F6 1954 c. 33 (N.I.)

F7 S.I. 1996/1919 (N.I. 16)
F8 S.I. 1992/807 (N.I. 5); the definition of "collective agreement" was amended by Article 150(2) of, and Schedule 2 to, the Trade Union and Labour Relations (Northern Ireland) Order 1995 (S.I. 1995/1980 (N.I. 12))
F9 1964 c. 29
F10 *See* the Civil Jurisdiction (Offshore Activities) Order 1987 (S.I. 1987/2197)
F11 1983 c. 54
F12 S.I. 1977/2151 (N.I. 22)
F13 S.I. 1986/594 (N.I. 3); Article 46 was substituted by Article 156 of the Education Reform (Northern Ireland) Order 1989 (S.I. 1989/2406 (N.I. 20))
F14 O.J. No. L299, 18.11.03, p. 9
F15 O.J. No. L216, 20.8.94, p. 12

PART 2

Rights and Obligations Concerning Working Time

General

3.—(1) The provisions of this Part have effect subject to the exceptions provided for in Part 3.

(2) Where, in this Part, separate provision is made as respects the same matter in relation to workers generally and to young workers, the provision relating to workers generally applies only to adult workers and those young workers to whom, by virtue of any exception in Part 3, the provision relating to young workers does not apply.

Maximum weekly working time

4.—(1) Unless an employer has first obtained the worker's agreement in writing to perform such work, a worker's working time, including overtime, in any reference period which is applicable in the case of that worker, shall not exceed an average of 48 hours for each seven days.

(2) An employer shall take all reasonable steps, in keeping with the need to protect the health and safety of workers, to ensure that the limit specified in paragraph (1) is complied with in the case of each worker employed, by the employer, in relation to whom it applies and shall keep up-to-date records of all workers who carry out work to which it does not apply by reason of the fact that the employer has obtained the worker's agreement as mentioned in paragraph (1).

(3) Subject to paragraphs (4) and (5) and any agreement under regulation 27(b), the reference periods which apply in the case of a worker are—

(a) where a relevant agreement provides for the application of this regulation in relation to successive periods of 17 weeks, each such period, or

(b) in any other case, any period of 17 weeks in the course of the worker's employment.

(4) Where a worker has worked for an employer for less than 17 weeks, the reference period applicable in the case of that worker is the period that has elapsed since starting work for the employer.

(5) Paragraphs (3) and (4) shall apply to a worker who is excluded from the scope of certain provisions of these Regulations by regulation 25 as if for each reference to 17 weeks there were substituted a reference to 26 weeks.

(6) For the purposes of this regulation, a worker's average working time for each seven days during a reference period shall be determined according to the formula—

$$\frac{A+B}{C}$$

where—
A is the aggregate number of hours comprised in the worker's working time during the course of the reference period;
B is the aggregate number of hours comprised in the worker's working time during the course of the period beginning immediately after the end of the reference period and ending when the number of days in that subsequent period on which the worker has worked equals the number of excluded days during the reference period; and
C is the number of weeks in the reference period.

(7) In paragraph (6), "excluded days" means days comprised in—

(a) any period of annual leave taken by the worker in exercise of an entitlement under regulation 15;

(b) any period of sick leave taken by the worker;

(c) any period of maternity, paternity, adoption or parental leave taken by the worker; and

(d) any period in respect of which the limit specified in paragraph (1) did not apply in relation to the worker by reason of the fact that the employer has obtained the worker's agreement as mentioned in paragraph (1).

Agreement to exclude the maximum

5.—(1) An agreement for the purposes of regulation 4(1)—

(a) may either relate to a specified period or apply indefinitely; and

(b) subject to any provision in the agreement for a different period of notice, shall be terminable by the worker giving not less than seven days' notice to the employer in writing.

(2) Where an agreement for the purposes of regulation 4(1) makes provision for the termination of the agreement after a period of notice, the notice period provided for shall not exceed three months.

Maximum working time for young workers

6.—(1) A young worker's working time shall not exceed—

(a) eight hours a day, or

(b) 40 hours a week.

(2) If, on any day, or, as the case may be, during any week, a young worker is employed by more than one employer, the young worker's working time shall be determined for the purpose of paragraph (1) by aggregating the number of hours worked for each employer.

(3) For the purposes of paragraphs (1) and (2), a week starts at midnight between Sunday and Monday.

(4) An employer shall take all reasonable steps, in keeping with the need to protect the health and safety of workers, to ensure that the limits specified in paragraph (1) are complied with in the case of each worker employed by the employer in relation to whom they apply.

Length of night work

7.—(1) A night worker's normal hours of work in any reference period which is applicable, in the case of that worker, shall not exceed an average of eight hours for each 24 hours.